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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,682	10/31/2001	Akihiro Yoshitani	CANO:039	2566
37013 7590 01/29/2009 ROSSI, KIMMS & McDOWELL, LLP. 20609 Gordon Park Square, Suite 150 Ashburn, VA 20147				
EXAMINER HUNTSINGER, PETER K				
ART UNIT		PAPER NUMBER		
2625				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/016,682

**Applicant(s)**

YOSHITANI ET AL.

**Examiner**

Peter K. Huntsinger

**Art Unit**

2625

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5, 6, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 12/08
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/29/08 has been entered.

### ***Response to Arguments***

2. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. The applicant has not provided arguments concerning the previous rejections under Misawa '382 in view of Kim '937.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misawa '382 in view of Kim '937.

Referring to claim 1, Misawa et al. disclose an image processing apparatus (composite communication apparatus 10 of Fig. 1, col. 3, lines 19-35) comprising:

an inputter arranged to input image data representing an image (image reading unit 15 of Fig. 1, col. 3, lines 19-35);

a first producer arranged to produce data for transmission by facsimile based on the image data input by said inputter (facsimile unit 80 of Fig. 1, col. 3, lines 19-35);

a second producer arranged to produce data for transmission by electronic mail based on the image data input by said inputter (email transmission unit 17 of Fig. 1, col. 3, lines 19-35);

a selector arranged to select a facsimile transmission or an electronic mail transmission based on an instruction by a user (S01 of Fig. 3, col. 4, lines 45-51, electronic mail transmission unit or facsimile transmission unit is selected); and

a controller arranged to control said first and second producers in a manner such that when the data for transmission by electronic mail is produced by said second producer in accordance with a selection of the electronic mail transmission by said selector, the data for transmission by electronic mail is produced without a processor adding white data to the image data input by said inputter to alter the size of the image represented by the input image data to the predetermined image size even if the image represented by the input image data is smaller than the predetermined image size (S62 and S78 of Fig. 6)

Misawa '382 does not disclose expressly altering the size of the image to a predetermined image size if the image is to be sent by facsimile.

Kim '937 discloses a processor arranged to process image data input by an inputter in a manner such that the image represented by the image data has a predetermined image size by adding white data to the image data input by said inputter (col. 3, lines 58-63, in order to compensate for the difference between the transmission size and the original document size, white pixels are added); and

when the data for transmission by facsimile is produced by a first producer in accordance with a selection of the facsimile transmission, the data for transmission by facsimile is produced after said processor adds the white data to the image data input by said inputter to alter the size of the image represented by the input image data to the predetermined image size for transmission by facsimile if the image represented by the input image data is smaller than the predetermined image size (col. 3, lines 58-63, in order to compensate for the difference between the transmission size and the original document size, white pixels are added).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add white pixels to an image to reach a predetermined image size when the image is sent via facsimile. The motivation for doing so would have been compensate for the difference between the original image size and the transmission or paper size. Therefore, it would have been obvious to combine Kim '937 with Misawa '382 to obtain the invention as specified in claim 1.

Referring to claim 2, Misawa '382 discloses wherein said inputter inputs the image data from a reader which reads the image and generates the image data based on the image (image reading unit 15 of Fig. 1, col. 3, lines 19-35).

Referring to claim 3, Misawa '382 discloses wherein said inputter inputs the image data from a detachable memory (image reading unit 15 of Fig. 1, col. 3, lines 19-35). Misawa '382 discloses that the scanner can be separate from the composite communication apparatus (col. 7, lines 31-52). It is inherent that the scanner has memory for receiving image data. The scanner can be detached from the system because it is a separate device, therefore the image reading unit 15 is a detachable memory.

Referring to claim 6, Misawa '382 discloses wherein said controller restricts operations of said first and second producers according to a predetermined condition (S56 of Fig. 6, col. 6, lines 13-17).

Referring to claim 15, see the rejection of claim 1 above.

Referring to claim 16, see the rejection of claim 1 above.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Misawa '382 and Kim '937 as applied to claim 1 above, and further in view of Morigami '934.

Referring to claim 5, Misawa '382 discloses wherein said controller controls said first producer and said second producer but does not disclose expressly using different gamma values for producing the data.

Morigami '934 discloses different gamma values in producing data for facsimile and monitors (col. 9, lines 59-67, typical gamma coefficient is 0.45 for CRT and 0.65-0.8 for a facsimile machine).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to produce an image for facsimile transmission with a different gamma value than producing an image for email. The motivation for doing so would have been to utilize typical gamma values in producing the images to obtain accurate images. Therefore, it would have been obvious to combine Morigami '934 with Misawa '382 and Kim '937 to obtain the invention as specified in claim 5.

### ***Conclusion***

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

/Peter K. Huntsinger/

Examiner, Art Unit 2625

/David K Moore/

Supervisory Patent Examiner, Art Unit 2625